

## Internal Revenue Service, Treasury

## § 301.7805-1

pool to issue related debt obligations with multiple maturities. The transfer of the \$10,000,000 to Partnership Q is a substantial transfer (within the meaning of §301.7701(i)-3(b)(2)).

(c) *Duration of taxable mortgage pool classification*—(1) *Commencement and duration*. An entity is classified as a taxable mortgage pool on the first testing day that it meets the definition of a taxable mortgage pool. Once an entity is classified as a taxable mortgage pool, that classification continues through the day the entity retires its last related debt obligation.

(2) *Testing day defined*. A testing day is any day on or after September 6, 1995, on which an entity issues a related debt obligation (as defined in paragraph (b)(3) of this section) that is significant in amount.

[T.D. 8610, 60 FR 40092, Aug. 7, 1995]

### § 301.7701(i)-4 Special rules for certain entities.

(a) *States and municipalities*—(1) *In general*. Regardless of whether an entity satisfies any of the requirements of section 7701(i)(2)(A), an entity is not classified as a taxable mortgage pool if—

(i) The entity is a State, territory, a possession of the United States, the District of Columbia, or any political subdivision thereof (within the meaning of §1.103-1(b) of this chapter), or is empowered to issue obligations on behalf of one of the foregoing;

(ii) The entity issues the debt obligations in the performance of a governmental purpose; and

(iii) The entity holds the remaining interests in all assets that support those debt obligations until the debt obligations issued by the entity are retired.

(2) *Governmental purpose*. The term governmental purpose means an essential governmental function within the meaning of section 115. A governmental purpose does not include the mere packaging of debt obligations for resale on the secondary market even if any profits from the sale are used in the performance of an essential governmental function.

(3) *Determinations by the Commissioner*. If an entity is not described in paragraph (a)(1) of this section, but has a

similar purpose, then the Commissioner may determine that the entity is not classified as a taxable mortgage pool.

(b) *REITs*. [Reserved]

(c) *Subchapter S corporations*—(1) *In general*. An entity that is classified as a taxable mortgage pool may not elect to be an S corporation under section 1362(a) or maintain S corporation status.

(2) *Portion of an S corporation treated as a separate corporation*. An S corporation is not treated as a member of an affiliated group under section 1361(b)(2)(A) solely because a portion of the S corporation is treated as a separate corporation under section 7701(i).

[T.D. 8610, 60 FR 40092, Aug. 7, 1995]

### § 301.7704-2 Transition provisions.

See the regulations under section 7704 contained in part 1 of this chapter for a definition of the “substantial new line of business” that an “existing” publicly traded partnership cannot enter without forfeiting its partnership status under the transition provisions applicable to section 7704.

[T.D. 8450, 57 FR 58710, Dec. 11, 1992]

## General Rules

### APPLICATION OF INTERNAL REVENUE LAWS

### § 301.7803-1 Security bonds covering personnel of the Internal Revenue Service.

For regulations relating to the procurement of security bonds covering designated personnel of the Internal Revenue Service between January 1, 1956, and June 6, 1972, see 31 CFR part 226.

(Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

[T.D. 7239, 37 FR 28628, Dec. 28, 1972]

### § 301.7805-1 Rules and regulations.

(a) *Issuance*. The Commissioner, with the approval of the Secretary, shall prescribe all needful rules and regulations for the enforcement of the Code (except where this authority is expressly given by the Code to any person other than an officer or employee of the Treasury Department), including

all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.

(b) *Retroactivity.* The Commissioner, with the approval of the Secretary, may prescribe the extent, if any, to which any regulation or Treasury decision relating to the internal revenue laws shall be applied without retroactive effect. The Commissioner may prescribe the extent, if any, to which any ruling relating to the internal revenue laws, issued by or pursuant to authorization from him, shall be applied without retroactive effect.

(c) *Preparation and distribution of regulations, forms, stamps, and other matters.* The Commissioner, under the direction of the Secretary, shall prepare and distribute all the instructions, regulations, directions, forms, blanks, stamps, and other matters pertaining to the assessment and collection of internal revenue.

**§ 301.7811-1 Taxpayer assistance orders.**

(a) *Authority to issue—(1) In general.* When an application is filed by the taxpayer or the taxpayer's duly authorized representative, in the form, manner and time specified in paragraph (b) of this section, the Ombudsman may issue a taxpayer assistance order if, in the determination of the Ombudsman, the taxpayer is suffering or is about to suffer a significant hardship as a result of the manner in which the internal revenue laws are being administered by the Internal Revenue Service, including action or inaction on the part of the Internal Revenue Service.

(2) *Issuance without an application.* The Ombudsman may issue a taxpayer assistance order in the absence of an application under section 7811(a).

(3) *Duly authorized taxpayer's representative.* A "duly authorized taxpayer's representative" is any attorney, certified public accountant, enrolled agent, enrolled actuary, or any other person permitted to represent the taxpayer before the Internal Revenue Service who is not disbarred or suspended from practice before the Internal Revenue Service and who has a written power of attorney executed by the taxpayer.

(4) *Significant hardship—(i) Determination required.* A determination of significant hardship is required to be made by the Ombudsman prior to the issuance of a taxpayer assistance order.

(ii) *Term Defined.* The term *significant hardship* means a serious privation caused or about to be caused to the taxpayer as the result of the particular manner in which the revenue laws are being administered by the Internal Revenue Service. Mere economic or personal inconvenience to the taxpayer does not constitute significant hardship.

(5) *Finding different from relief.* A finding that a taxpayer is suffering or about to suffer a significant hardship as a result of the manner in which the internal revenue laws are being administered by the Internal Revenue Service will not automatically result in relief being granted to a taxpayer under this section. A finding of "significant hardship" is separate and distinct from a determination that the taxpayer will be granted relief. The granting of relief requires an examination of the behavior of the taxpayer and of the action or inaction of the Internal Revenue Service that causes or is about to cause the significant hardship to the taxpayer.

(b) *Application for taxpayer assistance order—(1) Form.* The application for a taxpayer assistance order shall be made on a Form 911 (Application for Taxpayer Assistance Order to Relieve Hardship) available from any local office of the Internal Revenue Service or in a written statement which shall contain the following information:

(i) Name, social security number (or the employer identification number), and current mailing address of the taxpayer submitting the application.

(ii) Kind of tax (individual, corporate, etc.) and tax period or periods involved.

(iii) Description of the Internal Revenue Service action or proposed action which is causing or is about to cause a significant hardship to the taxpayer and, if known, the Internal Revenue Service office and personnel involved.

(iv) Description of the specific hardship caused or about to be caused and the kind of relief requested.

(v) Signature of the taxpayer/applicant or duly authorized representative.